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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,017	10/01/2003	Cherng Chang		9531

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EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/677,017	Applicant(s) CHANG, CHERNG	
	Examiner Gary C. Hoge	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-68 is/are pending in the application.
- 4a) Of the above claim(s) 62-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/2/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 62-68 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The inventions of claims 49-61 and 62-68 are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a process in which the components are sold separately.

In the paper filed June 27, 2005, Applicant elected the apparatus of Species 1-A (Figures 1, 2, 3 and 6). Accordingly, claims 62-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 49-57 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutton (2,996,774).

Sutton discloses a device **10** for holding one or more sheets comprising a first holder component **18**; a second holder component having a base **6**; and a spring **26** for driving a rotative

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motion of the first holder component **18** relative to the holder base **6** and for exerting a force needed for holding one or more sheets in the device **10**.

Regarding claim 50, Sutton discloses a pin **16**, the first holder component **18** has a first sleeve **22** partially wrapping the pin **16**, and the holder base has a second sleeve **14** partially wrapping the pin **16**.

Regarding claim 51, see Fig. 1. The gap between the two sleeves **22** constitutes a cut-out, the pin **16** constitutes a plunger for retaining the spring **26**, and the plunger engages with the cut-out for driving the rotative motion of the first holder component.

Regarding claims 52 and 53, the recitation that the device is a "picture frame" is merely a statement of intended use. It does not define structurally over the prior art. Board **10** can be considered a "picture frame body" to which the holder base **6** is fastened.

Regarding claim 54, portions of the spring **26** will be compressed as it is rotated.

Regarding claim 55, the first component **18** disclosed by Sutton includes a rotatable holder plate **20** for detachably holding one or more sheets.

Regarding claim 56, whenever the user pushes on handle **34** it imparts a torque to the holder plate. Whenever a user is *not* pushing on handle **34** no torque is imparted to the holder plate.

Regarding claim 57, the pin **16** constitutes a plunger for retaining the spring.

4. Claims 49 and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Postell (2,500,468).

Postell discloses a device **10** for holding one or more sheets comprising a first holder component **16**; a second holder component having a base **20**; and a spring **26** for driving a

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rotative motion of the first holder component 16 relative to the holder base 20 and for exerting a force needed for holding one or more sheets in the device 10.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutton (2,996,774) in view of Haas et al. (4,605,246).

Sutton discloses the invention substantially as claimed, as set forth above. However, Sutton includes only a single holder. Haas teaches that it was known in the art to provide a device having at least four holders. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device disclosed by Sutton with at least four holders, as taught by Haas, in order to hold multiple articles.

Allowable Subject Matter

7. Claim 58 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

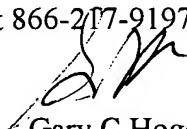
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch